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Letter dated 16 December 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities addressed to the President of the Security Council

I have the honour to transmit herewith the written assessment of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities, which was approved by the Committee on 16 December 2004. The written assessment is being submitted pursuant to paragraph 15 of Security Council resolution 1455 (2003). I would appreciate it if the written assessment could be circulated to members of the Security Council and issued as a document of the Council.

(*Signed*) Heraldo Muñoz
Chairman
Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and Associated Individuals and Entities

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Enclosure

Written assessment pursuant to paragraph 15 of Security Council resolution 1455 (2003) of action taken by States to implement the measures contained in paragraph 1 of resolution 1455 (2003)

I. Introduction:

The Security Council in paragraph 15 of its resolution 1455 (2003) requested the Committee, based on its oral assessment pursuant to paragraph 14 of the same resolution, through its Chairman, to prepare and circulate to the Council a written assessment to the Council of actions taken by States to implement the measures referred to in paragraph 1 of the above resolution, i.e., the travel ban, arms embargo and assets freeze targeting individuals and entities belonging to or associated with the Taliban and Al-Qaida.

The Committee, in order to best comply with this obligation, approached the Monitoring Team established pursuant to Security Council resolution 1526 (2004) with a request for assistance to provide an analysis of all the States' reports received pursuant to resolution 1455 (2003). The analysis was provided to the Committee on 15 October 2004 and its entire text appears in the attached Annex. The Committee has highly appreciated the professional quality of the analysis prepared by the Monitoring Team and found it a valuable source of information for arriving at its own conclusions. The Committee herein refers to the factual information as it is stated in the analysis.

II. Importance of the reports submitted by Member States:

The Committee finds that the reports submitted by Member States provide a valuable tool in assessing their implementation of sanctions against Al-Qaida and the Taliban. That said, the reports cannot provide a complete and entirely accurate picture of the real efficiency of States' counter terrorism efforts. The Committee continues as one of its primary tasks to focus on Member State implementation of the relevant measures, with a view to strengthening and improving such implementation efforts. The Committee notes that the collective efforts and action of the international community will continue to be needed to combat the threat to international peace and security posed by global terrorism.

The Committee believes that submitted reports, their analysis and subsequent consideration are useful on several levels. Firstly, the Security Council obtains the overall picture of States' implementation efforts, including with regard to problematic areas. This enables the Council to fine-tune and improve sanctions measures in the future. Secondly, the Committee can more easily outline follow-up actions focusing on those issues where States should make additional efforts in implementing sanctions measures as well as on those issues where the Committee should offer more transparency, clarity, and assistance to States. Thirdly, awareness is brought to States that the Committee, with the assistance of the Monitoring Team, has carefully reviewed their reports and is aware of their successes, challenges and problems, and is ready to address them.

For these reasons, as is elaborated below, the Committee continues to find great importance in receiving additional and updated information to reports submitted pursuant to resolution 1455 (2003) and urges all non-submitting States to do so as a matter of urgency.

III. Major findings:

1. Level of implementation - the readiness of States to deal with the threat of terrorist acts through applying the instrument of sanctions:

Based on the analysis of the Monitoring Team, the Committee concludes that there are different levels of implementation of measures by States. Some States have technical, financial and human resources potential and have clearly demonstrated their willingness and readiness to prevent and neutralize possible terrorist activities. These States might be in the best position to efficiently implement the sanctions. They remain, however, vulnerable to the increasingly sophisticated operational activities of Al-Qaida and its primary focus on some of these States. There are also States that have sufficient potential to take all necessary measures to prevent terrorist acts, but have not demonstrated in their reports that they have done so. In the future, the Committee intends to enhance dialogue with these States, with a view to determining specific steps such States have taken in the past and should take in the future in order to effectively implement the measures.

Some States have provided implementation reports in which they admitted difficulties caused, inter alia, by limitations in their implementation capacities. The Committee intends to provide a list of these States, with their concrete requirements for assistance, to the CTC and will follow up actively in ensuring that their capacities are enhanced allowing for a fuller implementation of the sanctions measures. Finally, there are States that have not submitted their reports in spite of the concerted efforts of the Committee and the Monitoring Team. For more than a year and a half the Committee has worked to ensure that all Member States report. It is therefore noted with great concern that almost one third of States still have not done so. In this connection, the Committee refers to its report submitted to the Security Council on 27 April 2004 (S/2004/349 – non-reporting). The Committee presumes that most non-reporting States lack the necessary capacity, but it is unaware of what kind of assistance they may require. Therefore, the Committee is urging these States, listed in the attached Monitoring Team's analysis, to submit their reports to the Committee as soon as possible, but not later than 31 December 2004. The Chairman of the Committee and the Monitoring Team continue to be in contact with non-reporting States. An issue which needs further consideration is to which extent the continued failure of States to submit reports is indicative of a lack of commitment and political will to combat the global terrorist threat.

2. The Committee's List and individual sanctions measures:

The Committee's List: The Committee is pleased to note that most reporting States make appropriate use of the Committee's List, including by the circulation of updates to relevant authorities. The Committee is also grateful for new suggestions to the list and additional identifying information provided by some Member States and encourages other Member States to submit new names and such

information to the extent possible. The Committee will continue to monitor the extent to which list updates are circulated to all relevant authorities and will consider if more can be done to ensure that the list is also circulated to intelligence agencies, designated non-financial entities and professionals as relevant.

The Assets Freeze: The Committee takes note of the Monitoring Team's assessment as it pertains to the assets freeze. The assessment gives a nuanced picture of the current level of implementation. It seems to the Committee that most Member States are advancing in their capacity to implement the assets freeze. At the same time the assessment shows that certain concrete steps, such as regulating the activities of non-banking financial entities, cash couriers, and charities, have yet to be implemented in a number of countries. The Committee will focus on these issues in future meetings with Member States and on the Chairman's future travels, as appropriate. In particular, the Committee notes that more efforts are needed in terms of proper control over alternative remittance systems, non-banking financial entities, and charities. The Committee will also ask the Monitoring Team to follow-up on this issue.

The Travel Ban: The implementation of the travel ban continues to be a concern for the Committee. In the five years the travel ban has been in place, not a single individual is reported to have been stopped at a border as a consequence of being on the Committee's list. It is possible, however, that the travel ban may have had preventive effects on those listed. Further consideration must be given to how the travel ban can be better designed and implemented. In this regard, the Committee notes that some States still have problems disseminating list updates to all relevant border check points and consular offices. The Committee is currently considering how to improve the identifiers on the list and will continue to follow the matter closely.

The Arms Embargo: As with the travel ban, the Committee notes that no cases of enforcement of the arms embargo have been reported to the Committee. Furthermore, the Committee understands from the Monitoring Team assessment that little information on legislation and enforcement measures has been provided by Member States. The Committee has asked the Monitoring Team to follow this matter closely.

IV. Continuing information exchange

The Committee finds that the information provided by Member States needs to be kept current to allow the Committee and the Security Council to remain aware of the actual level of implementation or the situation of any specific problem States are facing. Therefore, all States are reminded, as necessary, to provide any additional information relevant to their implementation of the sanctions measures. This information can pertain to both measures undertaken since the Member State report was submitted and such information that can fill gaps in their reports. States are also called on to provide the information to the Committee regarding (a) results of relevant investigations and enforcement actions, unless to do so would compromise the investigation or enforcement actions; (b) concrete measures taken with respect to previously or newly listed individuals and entities, in particular with regard to the aggregated amounts of frozen assets; (c) circulation of the Committee's

List among non-banking financial entities and other non-traditional or non-financial entities; (d) best implementation practices which could be of use to other States.

The Committee notes that there is a continuous need for information sharing between Member States and the Committee. The Committee will continue to encourage States to take advantage of the opportunity provided them in paragraph 11 of resolution 1526 (2004) to meet with the Committee. Such meetings can be used by Member States to address concerns, relate best practices, discuss capacity building needs, and other issues. The Committee may also consider inviting Member States to meet the Committee in order to enhance dialogue. The Chairman's 120-day briefings to the Council and his briefings to Member States should be used by Member States to learn more about the main issues on the Committee's agenda. Furthermore, the Committee continues to find great use in the Chairman's visits to selected Member States as authorized by resolution 1526 (2004). These visits provide the Committee with fresh insights that it cannot get from Member State reports. The Committee also notes the important role of the Monitoring Team in this regard, as detailed below.

The reports from Member States make it clear that the Committee must provide further guidance to States on a number of issues. The Committee considers the continued improvement of its list to be one of its urgent tasks. In this regard, the Committee will consider how to deal with names on the list that do not have enough identifiers, as well as with the duties States have when a listed individual is found within or at their borders after illegal entry. The Committee draws attention to its website (http://www.un.org/Docs/sc/committees/1267Template.htm) where updated information, including updates to the Committee's list, can be found. It is also noted that the Secretariat now automatically conveys updates of the Committee's list to designated focal points at all Permanent Missions and in most Member States' capitals. The Committee may consider if focal points should be used for purposes other than the automatic conveyance of updates to the Committee's list.

V. Role of the Monitoring Team

The Committee is grateful for the work carried out by the Monitoring Team. The Team has established close cooperation with the Committee and wide contacts with Member States both in New York and through their visits to 18 Member States and attendance at 6 regional conferences. Through both their analysis of Member State reports and their established contacts, the Team has gained an insight into the main areas of concern to Member States and to the areas in which the Committee needs to maintain its focus. The Committee will direct the Monitoring Team to pursue some of the apparent common lapses in implementation, including by recommending to the Committee how regulation of and control over the movement of cash and precious commodities can be improved, how alternative remittance systems can be better regulated and controlled, how to improve the regulation of charities and how to ensure a broader circulation of the Committee's list.

The Committee also endorses the Team's efforts to share information and coordinate its activities with the Counter-Terrorism Committee and the Counter-Terrorism Executive Directorate, especially with regard to forthcoming visits to selected States where the Chairman's visits also have to be taken into consideration. The Committee also emphasizes the importance of the Team's

cooperation with United Nations specialized agencies and relevant international and regional organizations, and encourages the Team to continue and expand these contacts.

As noted above, the Monitoring Team found that some States did not, in their reports, show that they had implemented the sanctions measures to their full capacity. The Monitoring Team will assist the Committee in pursuing enhanced dialogue with Member States, including by seeking additional information from them, with a view to determine the specific steps States have taken and will take to implement the measures. The Committee will then consider what further action should be taken, especially with regard to cases, if any, where actual implementation does not match capacity.

The Monitoring Team will also be asked to provide the Committee with specific recommendations on how States may improve their implementation of the travel ban and the arms embargo.

VI. Conclusions

The reports submitted by Member States pursuant to resolution 1455 (2003) have provided the Committee with much valuable information on the level of implementation of sanctions measures, issues of concern, questions relating to the use of the list and, to some extent, needs for assistance. Together with other means of communication, these reports allow the Committee to further improve the sanctions measures on a regular basis and to focus its work on pertinent issues. Again, the Committee wishes to stress the importance for all Member States to be in contact with the Committee, its Chairman and the Monitoring Team. Security Council resolution 1526 (2004) does not require States to submit new comprehensive implementation reports, but rather allows for active dialogue through a number of means. As described above, the Committee intends to make full use of these means in its future work.

The overriding obligation to implement sanctions rests with Member States. It is important for the Committee to underscore that reporting should not be seen as a goal in itself, nor as a chore, but as an important element in enhancing the fight against terrorism by further improving sanctions measures with the view to better target individuals and entities belonging to or associated with the Taliban and/or Al-Qaida.

Assessment of 131 Member States' Reports under Resolution 1455 (2003)

Prepared by the Analytical Support and Sanctions Monitoring Team
October 2004

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I. Executive Summary

1. In January 2003 Security Council Resolution 1455 required Member States to report on the implementation of United Nations sanctions against Al-Qaida and the Taliban. The reports received since then paint an elaborate but incomplete picture of the global effort against this form of terrorism. The overwhelming majority of reporting States support and acknowledge the value of the Consolidated List[1] as the basis of the sanctions regime in this area, and all claim to have incorporated the List into their legal systems, but the extent of the implementation of the UN sanctions nonetheless remains unclear.

2. Sixty Member States out of 191 (31%) have not provided any report,[2] and many of those that did respond failed to include sufficient detail to permit a thorough assessment of their sanctions regimes. Despite this lack of detail however, the Monitoring Team is able to offer several observations and conclusions beyond those contained in its July report. It will draw further on the information provided by States in its December report.

3. States appear to have implemented the Consolidated List into their national regimes with relatively few problems, though some still may need to refine their legislative or administrative mechanisms. Although many complain that entries on the List lack sufficient identifiers, most States appear to circulate the List appropriately to banks, ports of entry and other relevant national authorities. The proper circulation of the List is a fair measure of States' determination to implement the Assets Freeze, Travel Ban and Arms Embargo, and some could improve their systems and speed up their procedures. To make the financial measures more effective, more Member States need to be persuaded to circulate the relevant names to entities outside the traditional banking systems, and to increase their regulation of non-banking financial institutions and operations.

4. With respect to the Travel Ban and the Arms Embargo, States' reports provided little substantive detail. The overwhelming majority of States asserted that their laws adequately implemented these aspects of the sanctions, but generally they offered too little information to allow the Monitoring Team to make an independent assessment of their claims.

5. The Monitoring Team believes that those States that have not submitted reports should be persuaded to do so. Further general reports should not be required from States that have

[1] The Consolidated List of Individuals and Entities belonging to or associated with the Taliban and Al-Qaida Organisation as established and maintained by the 1267 Committee.

[2] The Republic of Seychelles submitted its report on 16 November 2004, and Guyana provided its report on 8 December 2004. Accordingly, as of 15 December 2004, 58 Member States had not submitted a report, and analysis of the two new reports is not included herein. In addition, the Republic of Madagascar recently submitted a letter of explanation and indicated its intention to submit a report in the near future. Bolivia reiterated its intention to submit its report, as it previously had indicated in a letter of explanation. St Kitts and Nevis and Trinidad and Tobago also communicated to the Team that they have taken action on the preparation of their reports for submission as soon as possible.

already responded, but specific questions from the Committee and the Monitoring Team to individual Member States may be necessary to ensure a complete understanding of the extent of global compliance with Security Council directives.

II. Introduction

6. In January 2003 the Security Council adopted Resolution 1455 (2003), which called upon all Member States to report on their implementation of the measures imposed on Al-Qaida, the Taliban and Associated Individuals and Entities by Security Council Resolutions 1267, 1333 and 1390. The Resolution requested the Security Council Committee established under Resolution 1267 (1999) (the 1267 Committee) to prepare a written assessment, based on these reports, of the actions taken by States.

7. The 1267 Committee issued guidance to Member States in March 2003 on the structure and content of their reports. The guidance proposed that States focus their reports on how they had dealt with the Consolidated List of Individuals and Entities to whom the measures applied, and how they had implemented the Assets Freeze, the Travel Ban and the Arms Embargo. The guidance also invited Member States to comment on the activities of Al-Qaida and the Taliban, and the threat they posed, and to say whether they were in a position to offer assistance to others in the implementation of the measures, or whether they themselves sought such help.

8. Resolution 1455 makes clear that what the Security Council sought by inviting States to submit reports was to maintain the momentum of international action against Al-Qaida and the Taliban, and to assess the effectiveness of the measures it had imposed. The Council sought to improve the Consolidated List by encouraging States to add further identifiers and submit new names, and it wanted to know what States had done to implement and enforce the measures. This was not done only to ensure that States had taken the necessary action, but also to identify problems with implementation – hence, the invitation to States to identify areas where they might need assistance.

9. This report, prepared by the Analytical Support and Sanctions Monitoring Team at the request of the 1267 Committee, attempts to assess the extent to which the Council's objectives have been met. At the direction of the Committee, the report also attempts to identify where information is still lacking concerning the action taken by States, and to assess the overall usefulness of the process, given the burden it placed on States.

10. Although not all States have submitted reports, 131 have now done so: 83 States submitted their report between the first deadline of 17 April 2003 and 30 October 2003; 43 between 31 October 2003 and 27 April 2004; and five between 28 April and 15 October 2004. A list of the 60 States that have still to submit their 1455 report is attached as an

Annex. Eight[3] of 17 States (highlighted in bold) that submitted a letter of explanation described in detail why they had been so far unable to comply with the reporting requirement. One State simply said that it had no further information to provide beyond that contained in its reports submitted to the Counter Terrorism Committee under Resolution 1373.

III. Assessment

11. Inevitably, and despite the Committee's guidance, the style and content of Member States' reports varied considerably. The great majority adopted the structure recommended by the guidance, but even so, the depth and relevance of the information provided is inconsistent. The Monitoring Team sees several reasons for this and examines them later in this report, but this inconsistency makes it harder to draw general conclusions.

IV. Meeting the Council's Objectives

A. Providing Momentum

12. There is no doubt that the reporting requirement under Resolution 1455 reminded States of the importance attached by the Security Council to the threat from Al-Qaida and the Taliban and the need for States to address it in a concerted way, including through the effective implementation and enforcement of the sanctions regime. A similar exercise a year earlier, introduced by Resolution 1390, elicited a response from only 88 States, and without a further reminder, Member States might have lost sight of their obligations. It should be remembered though that all States responded to the request for information contained in Resolution 1373 of September 2001.

13. Some States may have accelerated their implementation of the measures and improved their procedures knowing that they had to report back to the Security Council in accordance with Resolution 1455. Others will have found the process a useful stocktaking exercise. But other States clearly regarded the reporting requirement as a chore; they answered the questions, but lacked the resources, mechanisms, or political will to do so in depth. The fact that some States took over 18 months to submit their report, and others have not reported at all, suggests that many did not see Resolution 1455 as a spur to activity.

B. Effectiveness of the Measures

14. The reports submitted by Member States highlighted areas in which the Security Council could consider improving the sanctions. They show where implementation and

[3] Barbados, Central African Republic, Comoros, Ethiopia, Guyana, Seychelles, Solomon Islands and Timor-Leste.

enforcement present problems, and where the measures have lacked the intended impact. However the Security Council can only design effective measures if it has an accurate picture of the threat, and for this reason the guidance asked Member States to provide information on the activities of Al-Qaida and the Taliban and the threat they posed.

(a) Assessing the Threat (section I of the Guidance)

15. A large majority of Member States responded to the question on activities and threat. Of these 65 (50%[4]) had nothing substantial to report, 26 (20%) made a general comment on the nature of the threat, and 17 (13%) offered an assessment of the threat to their own security, but without going into detail. Only 23 States (17%) offered specific information both on the general threat from Al-Qaida and the Taliban, and on how this affected their own security.

16. The lack of analysis in Member States' reports may reflect a lack of awareness and understanding of the threat, particularly of the way it has changed since the removal of the Taliban from Afghanistan. It may also denote that many Member States still see Al-Qaida as low on the list of their own concerns. The reports show therefore that there is still a need for the Security Council, whether on its own or through the 1267 Committee and its Monitoring Team, to explain the global nature and significance of the threat.

(b) Improving the List (section II of the Guidance)

17. According to their reports, the great majority of Member States accepts the value of the Consolidated List as an essential tool in combating Al-Qaida and the Taliban, and recognises that it forms the basis of the sanctions regime imposed by the Security Council. However an underlying theme in a great many reports, articulated clearly in 59 of them (45%), was that the List would be more useful if the entries contained more identifiers.

18. Nine Member States[5] usefully provided additional data in their reports on individuals or entities on the Consolidated List. The Monitoring Team intends to collate this new information, cross check it against the original submissions, and present it to the 1267 Committee for its consideration.

19. All States claim to have incorporated the List and its sanctions into either their legal or administrative regimes, but nonetheless some express concern that the lack of a clear justification for the inclusion of names on the List might lead to legal challenge, should they have to take action against them. Six Member States reported having faced such challenges from listed individuals or entities.[6]

[4] Percentages cited in this report are based on the 131 reports received, rather than relating to all 191 Member States.
[5] Bosnia and Herzegovina, Belgium, Algeria, Egypt, Indonesia, Lebanon, Philippines, Russia and Libya.
[6] Sweden, United States, Pakistan, Ireland, Italy and Turkey.

20. Leaving aside the differences in the capabilities of Member States in the field of counter terrorism, there was general confirmation that systems existed to circulate the List to ports of entry, banks and other relevant bodies. It appeared though that in some cases the circulation of additions or changes to the List was not done in a timely manner.

21. Twenty Member states (15%) reported having detected, at one time or another, an individual or entity on the Consolidated List within their jurisdiction. However of those only one Member State[7] followed the guidance in full by reporting the names and the actions taken against them.

(c) Implementing the Assets Freeze (section III of the Guidance)

22. States' responses to the questions concerning the financial measures almost invariably proved to be their fullest, with a good response to most areas of the guidance. The Monitoring Team estimates that Member States have provided about 60% of the information required overall, but less than this in respect to non-financial entities, charities, alternative remittance systems and precious commodities.

23. The majority of States addressed the questions in the guidance concerning the legal basis for their implementation of the Assets Freeze. But the laws cited by some appeared vulnerable to legal challenge. Some States appeared to rely on Anti-Money Laundering legislation; but adding terrorism as a predicate crime to laws designed to deal with the proceeds of crime may not easily allow the detection of funds that are destined to be used to commit a terrorist act. Although some tools that are useful for Anti-Money Laundering are similarly helpful for Counter-Financing of Terrorism, they are essentially different issues[8]. Follow-up questioning is necessary to gauge whether these laws are effective in terms of the sanctions measures.

24. Analysis of the 131 reports shows that the Consolidated List has been circulated to banks and non-bank financial institutions (NBFIs[9]) by 125 (95%) and 107 (82%) Member States respectively. These are impressive figures. The lower level of circulation to NBFIs can be explained in part by the fact that in many small and developing economies, the financial markets lack depth and diversity. In such economies, the banking sector is likely to constitute the main component of the State's financial system. Additionally, in many States, NBFIs are not permitted to accept regular deposits of money from the public; this means that in such countries financial assets are held mainly as deposits in banks. Some Member States reported that when their supervisory authorities conduct their regular

[7] Indonesia.

[8] For example, one State noted that it can freeze funds derived from terrorism, but this is not the same thing as having the ability to suppress terrorist financing.

[9] NBFIs include pension and insurance companies, financial leasing companies, foreign exchange bureaus, money transmitters, securities firms and credit unions.

inspections, they also check compliance with the Assets Freeze imposed by the Security Council.

25. On the other hand, only 37 Member States (28%) reported that they had distributed the Consolidated List to designated non-financial businesses and professionals (DNFBPs)[10]; and there was no consistency in the decision as to what type of DNFBP should receive it. Seventy-nine States (60%) did not provide any information on this point. With one exception[11], States did not appear to have circulated the List to charities or to their overseas branches. Analysis of the reports suggests, therefore, that whilst the Consolidated List has been comprehensively enforced in banks and NBFIs, this is not the case with regard to non-financial entities.

26. Most States adequately described the structures and mechanisms in place to identify and investigate financial networks related to Al-Qaida and the Taliban, and said how they coordinated this work nationally. But some States neglected to report on their involvement with regional and other international efforts at coordination. However, there is considerable impetus behind these initiatives and in the opinion of the Monitoring Team, no negative conclusion need be drawn.

27. Eighty-five Member States (65%) reported that they rely on Financial Intelligence Units (FIUs[12]) to identify or investigate Al-Qaida and Taliban related financial networks. The authorities of the remaining Member States had merely added terrorist financing to an existing reporting regime, seeing no need to introduce any new financial monitoring mechanism. At the same time, the reports show that 53 Member States (40%) had established ad-hoc counter-terrorism committees or task forces, which bring together the relevant national authorities, including central banks and FIUs. This is clearly encouraging, but it is unclear what if any role is played in these committees by the private sector, such as financial and non-financial institutions, beyond reporting suspicious transactions, and States might like to consider this issue.

28. The reports also indicate that customer verification (Know Your Customer or KYC rules) is now a requirement in banks and NBFIs in 97 (74%) and 89 (68%) of Member States respectively. But only 35 States (27%) required non-financial entities to comply with customer verification regulations. Strict implementation of Know Your Customer rules by banks, NBFIs and DNFPBs would make it harder for listed individuals and entities to use their current identities, as well as help to expose forged or false ones.

[10] DNFBPs include, for example, accountants, attorneys, trust administrators, registrars of businesses, tax agents, financial advisors, auto-dealers, dealers in antiques and artworks, dealers in precious commodities, real estate agents and travel agents.

[11] Canada was the only State to indicate that it had circulated the Consolidated List to charities.

[12] The role of the FIUs is to analyse Suspicious Transactions Reports (STRs) filed by financial institutions and other obligated non-financial entities and to disseminate that intelligence to appropriate national authorities for investigation or prosecution.

29. In many Member States, the obligation to verify customer identities only applied to the opening of new accounts or when new relationships were established. Furthermore, in a number of Member States, the obligation to conduct customer verification in a one-off transaction only existed when the transaction exceeded a given monetary amount, or when the cumulative amount within a stipulated period exceeded a particular limit. It is reasonable to suppose that Al-Qaida and Taliban financiers might be aware of such loopholes and conduct transfers below the reporting threshold. Nonetheless, the reports provided a useful picture of the growth in the effective international regulation of the financial sector and demonstrated an increasing trend toward the wider and stricter application of KYC rules, with one State even reporting that it had applied such requirements retrospectively[13].

30. Although 32 Member States (24%) reported freezing assets, their reports gave little detail of the assets concerned. It is difficult to know therefore whether the frozen assets are bank accounts or whether they include assets of another form, such as shares or other property. It is not possible from the reports to identify trends with regard to the kind of assets being held for the direct or indirect benefit of Al-Qaida and the Taliban.

31. Just over 100 Member States (76%) report that they require banks to file Suspicious Transaction Reports, and 94 (72%) and 43 (33%) have extended this requirement to NBFIs and DNFBPs, respectively. Only 24 Member States (18%) currently require charities and other non-profit organizations to report suspicious transactions.

32. The guidance circulated to Member States also asked them to report on their regulation of the movement of precious commodities. The response was poor, with 73 States (56%) providing no information at all, and a further 9 (7%) providing insufficient detail to permit an assessment to be made. Only 49 Member States (37%) reported some control over the trade in precious commodities.

33. The guidance also requested Member States to provide details of restrictions or regulations applicable to alternative remittance systems such as hawalas. Approximately 50 Member States (38%) reported that as money transfers or other remittances were financial services, they required authorization (registration or licensing) by the treasury, central bank or other supervisory authority. Thirty-six Member States (27%) reported that hawala was illegal if conducted without prior official authorization. A system of voluntary registration has gathered momentum in one Member State[14]. But 72 (55%) and 85 (65%) Member States respectively did not provide any information on whether hawalas required registration or were illegal.

[13] The Republic of South Africa has required all banks operating in that country to conduct customer verifications for all existing 17.5 million bank accounts.

[14] UAE has registered over 100 hawala brokers.

34. With regard to charities and similar entities, Member States reported introducing a number of measures[15] to prevent abuse and to deal with those charities and foundations that are listed or suspected of bankrolling Al-Qaida[16]. One State reported that it could not detect any activity by two charities listed as operating within its jurisdiction. Fifty-one Member States (39%) said that charities must be licensed, whereas 36 (28%) reported that they also oblige trustees of charities to maintain records of transactions, produce audited financial statements and file annual returns.

35. Again, it is difficult to draw conclusions from these figures, as 73 Member States (56%) provided no information on their licensing requirements for charities, and 88 (67%) gave no information on the financial reporting requirements imposed. Further, there appears to be an emerging trend only to monitor charities that have been granted tax exemptions, or that have received government grants or donations from public institutions. Although the advancement of education, promotion of religion and relief from poverty were frequently cited as charitable purposes beyond the need for monitoring, the fact remains that three listed charities/foundations, Benevolence International Foundation, Global Relief Foundation and Al-Haramain Foundation, were also involved in these activities.

(d) Implementing the Travel Ban (section IV of the Guidance)

36. The picture provided by Member States' reports of the incorporation of the Travel Ban into national legislation is a positive one, but the information provided was not extensive. It was noticeable that States[17] which recognised that there was a real threat emanating from Al-Qaida related terrorism, and that they could be the target of such terrorist activity, were the most inclined to follow the Committee's guidance in completing the questionnaire. Some States reported having adopted new regulations, others had revised existing legislation, and some had taken the view that they could accommodate the measures under existing legislation. Only 9 Member States (7%) said that they lacked legislation, or did not answer the question on this point. Overall, 122 States (93%) reported that they had the legal means to implement the Travel Ban.

[15] For example, Egypt, Gambia, Saudi Arabia and Argentina have reported the creation of national authorities to monitor the activities of charities. Egypt, Syria, Sri Lanka, India, Latvia and Eritrea also reported that trustees are now obliged to notify the authorities when their charities receive funds from or remit funds to foreign entities or individuals. UAE has introduced new regulations for charities.

[16] Azerbaijan shut the offices of Benevolence International Foundation and froze its bank accounts. Bosnia-Herzegovina also closed the offices of Global Relief Foundation, Benevolence International Foundation and Al-Haramain Islamic Foundation. The Web Page of the Charity Commission for England and Wales indicates that, at the request of the trustees, the United Kingdom has also deregistered Benevolence International Foundation after the remaining assets of GBP 2,312 were distributed according to its objectives. The United States also designated and shut down the US branches of Global Relief Foundation and Benevolence International Foundation, freezing over $1 million of Global Relief funds and over $900,000 of Benevolence International money.

[17] These States generally were located in Europe, North America, the Middle East, CIS and parts of Southeast Asia.

37. Generally, however, States provided insufficient information to test this assertion. Many Member States did not explain which of their laws would be applied to enforce the ban, possibly because the guidance did not make this a specific question, and only stated that the sanctions measures had been incorporated into their legislative and administrative structures. It is difficult, therefore, to assess whether States are in fact able to enforce the Travel Ban on the ground.

38. In fact the picture provided by the reports of actual implementation of the Travel Ban is unclear. No State reported explicitly that it had stopped anyone on the List at its borders. Only five States (4%) mentioned that action had been taken against individuals trying to enter their territory, and of those only one State[18] specified that the person concerned was on the Consolidated List, though he was not listed at the time he was refused entry. The other four States referred only to terrorists or terrorist suspects being denied entry, or extradited, without saying whether they were listed.

39. Although not said explicitly by Member States, the inference from 29 of the reports (22%) was that updated versions of the Consolidated List were not disseminated promptly within national systems. This appears to have occurred because the State in question lacked the capacity to do so, and did not necessarily indicate any lack of commitment to the strict implementation of the sanctions measures.

40. The reports confirmed that in 65 States (50%) Consular offices had neither direct nor indirect access to their national stop-list database, but instead were obliged to submit all visa applications to their capitals for further checking. Nonetheless, the reports also confirmed that the authorities responsible for adding the names of persons or entities to the national stop-list database did so, and the checking procedures were therefore conducted against up-to-date information.

41. A common difficulty cited concerning implementation of the Travel Ban was that the names on the Consolidated List lacked sufficient identifiers. This complaint was raised largely by those States that exhibited the greatest concern for their domestic security. Other States[19] did not mention this as a problem, and gave the impression that for them everything was in order. Other general points with regard to the Travel Ban concerned capacity-building, such as the lack of electronic equipment or the need for training, and the difficulty of monitoring borders, particularly in areas of instability.

[18] The United States of America took action in August 1999 against an individual listed in November 2001.

[19] Generally, Latin American and African States.

(e) Implementing the Arms Embargo (section V of the Guidance)

42. Many States appeared reluctant to go into great detail about what they had done in respect of the Arms Embargo, but quite probably they saw this as a sensitive area for reasons that had nothing to do with Al-Qaida and the Taliban.

43. Although 62 Member States (47%) provided insufficient detail to establish whether they had taken all necessary measures to implement the Arms Embargo, the majority of States reported that they had legal measures regulating the traffic, acquisition, storage, and trade in arms. Most Member States stated that they had incorporated the measures designed to prevent the acquisition of arms by Al-Qaida and the Taliban within existing legislation; but only 19 (15%) provided significant information on every point in the questionnaire. Some Member States also said that violations of the Arms Embargo were already criminalized under existing legislation governing weapons, ammunitions and associated goods.

44. Thirty-eight Member States (29%) reported having taken specific action to implement the measures, whether by adapting existing laws or introducing new ones. Sixty-nine States (53%) described their local market regulations, and 86 (66%) reported that they had reviewed their import/export procedures to ensure that they conformed to the Security Council requirement. Sixty-eight States (52%) also described their arms brokerage systems, though without necessarily explaining how these systems were used to prevent the acquisition of arms by Al-Qaida, the Taliban and associated persons and entities subject to the Arms Embargo.

45. Fifty-four States (41%) reported having safeguards to ensure that the weapons and ammunition produced within their jurisdiction could not be diverted for the use of those subject to sanctions. But many States that did not provide information on this point do not produce arms and explosives and so their silence does not necessarily denote any failure of compliance.

46. Ninety-eight States (75%) made no mention of the Consolidated List in describing their regulatory processes in relation to the Arms Embargo. This number is noticeably close to the 93 States (71%) that gave no indication whether they had integrated the arms sanctions measures directly into their domestic laws or regulations. These Member States seemed confident that their existing national laws could be applied to all criminals as well as the individuals and entities placed on the Consolidated List by the Security Council.

(f) A Need for Assistance (section VI of the Guidance)

47. Sixty-four States (49%) said that they could provide assistance to others, and 30 States (23%) identified a particular need for help with their implementation of the measures. Of these, eight States identified weaknesses in border control, six States identified technology as a problem, three States identified a need for financial and technical assistance, and six

identified training needs. The remaining seven States identified a need for assistance across the board. Three additional States said that they would inform the Committee of their assistance needs in due course, and two said that they had already communicated them to the CTC. The Monitoring Team will ensure that the CTC experts are aware of all the reported requirements and offers of assistance.

V. Value of the Reporting Process

48. The reporting process appears to have been useful in encouraging the majority of Member States to consider what they had done to implement the sanctions. But it would be reasonable to suppose that the fullest reports, and those produced most promptly, came from States that were already committed to the process. Even the most comprehensive reports, however, said more about how States were complying with the procedures laid down than about their effective enforcement of the sanctions.

49. Together with member States' reports produced in compliance with resolutions 1390 and 1373, the resolution 1455 reports help to provide a basic understanding of how each reporting State has reacted to Security Council initiatives against Al-Qaida and the Taliban. In addition to the detail provided, what was left unsaid can also provide pointers for follow-up action.

50. The reports also demonstrate that where there is considerable and sustained international effort to establish best practice and some conformity of regulation among States, such as in the area of financial sanctions, Member States are not only more aware of the issues, but also more inclined to adopt legal frameworks which allow effective implementation of the measures. However, where interpretation and action is left to the individual Member States, particularly where effective measures are both hard to design and hard to implement, such as in the areas of the Travel Ban and Arms Embargo, performance is more patchy and more dependent on local circumstances.

51. The usefulness of the reporting process was almost certainly affected by the degree to which Member States understood its purpose, and were motivated to provide information. Some States will have seen the threat as a remote one. Some may have been more concerned to give a positive picture of their compliance than a strictly accurate one. Some Member States' reports showed confusion over the separate objectives of the 1455 reporting requirement and those of earlier resolutions. While the guidance rightly urged States to refer to their 1373 reports where appropriate, in the cases where they have done so, their answers generally did not deal with the intended issues.

52. Many States clearly feel the burden of their reporting obligations more keenly than the advantage of fulfilling them. States have become slow to respond, compared to earlier reporting rounds associated with resolution 1373, and less scrupulous about collecting all

the relevant information. The time span over which the reports were submitted, between April 2003 and October 2004, means that some information is now out of date, and States have reported against a shifting background.

53. The reporting process has also thrown into doubt the continuing value of sending the same questionnaire to all States. Although the guidance issued to States was not intended to limit their answers, and played an important role in standardizing responses, it inevitably had to be broad enough to apply universally and it encouraged generalised answers. For example, in the finance section, as the guidance made no mention of non-financial entities, or cash couriers, States did not report in these areas.

54. But insofar as the reporting process has identified weaknesses in the implementation of the measures by particular Member States, and however it has done so, it will have helped the 1267 Committee to address them, whether through recommendations to the Security Council, through further tailored questionnaires, or through direct contact with individual States.

VI. Conclusions

55. The Monitoring Team believes that both in order to complete the picture of compliance and to protect the integrity of reporting requirements introduced by the Security Council, the Committee, through the Monitoring Team, should continue to press those States that have not submitted a report to do so. Some States will have more to report than others, and the Team will need to decide, with the Committee's help, where to concentrate its efforts, but ultimately all should do so.

56. Although it cannot be assumed that those Member States that have not reported, or that have provided the least information, are necessarily those that are least committed to the implementation of the measures, it is an area of inquiry to be explored. The Committee may like to consider, with the help of the Monitoring Team, whether there are Member States that have the capacity to implement the measures and yet have done little to do so, and if so what are the reasons behind this.

57. The Monitoring Team has identified several issues from Member States' reports that reinforce the need for further action, whether by States, multi-national organisations and/or the 1267 Committee or the Security Council. For example, States should undertake to do the following:

- circulate the List broadly among non-banking financial entities and other non-traditional or non-financial entities;
- examine and regulate charitable fund-raising and remittances by charities;

- regulate and control alternative remittance systems;
- adopt new laws to ensure full implementation of the List and the related financial sanctions, rather than rely on existing laws dealing with money laundering or other financial crime;
- regulate and control the movement of cash and precious commodities across borders; and
- implement fully Know Your Customer obligations.

58. International organizations, such as the World Bank, Financial Action Task Force, International Monetary Fund, and Basel Committee on Banking Supervision, and regional groups, including the EU and the Organization of the American States, should continue their useful review and action on some of these same topics and consider offering further valuable guidance and recommendations.

59. The Security Council and the 1267 Committee, along with the Monitoring Team, should continue its review of the same subjects and offer clarification on other matters. Issues highlighted by States that can only be addressed at the UN level include the following:

- the procedure by which States should handle names on the List that do not have sufficient identifiers;
- the duties of States when a person on the List is found within or at their borders;
- the ability of States to enforce the Travel Ban and the Arms Embargo; and
- the need, if any, to incorporate rules on subjects such as charities, alternative remittance systems and precious commodities, for example, into a mandatory or admonitory UN resolution.

The Team proposes to take up these and other issues in its subsequent reports.

60. In the Monitoring Team's view, there are now several alternatives available to the Committee and to the Security Council to maintain the pressure on Member States and to monitor the effective implementation of the sanctions measures. Although there are arguments in favour of another reporting round, the Monitoring Team does not recommend this for several reasons. First, there is a general feeling of reporting fatigue among Member States stemming from the multiplicity of reporting requirements from a variety of Security Council Committees. Second, the duplication and overlap in the questions posed by the various Committees, some inevitable, some as a result of insufficient coordination between them, does little to encourage Member States to devote time to look behind the

questions to the reasons they have been asked. Third, there is a need to move on to the next stage, which should involve working directly with individual or groups of Member States, building on what is already known.

61. The Monitoring Team has identified issues in individual reports that require follow up, whether through tailored questionnaires, direct contact with States, or a mixture of both. Some of the information required is no doubt available already, and in the interests of efficiency, the Monitoring Team will continue to liase with international, regional, and national bodies to obtain additional material and to identify any information gaps, as well as to assist coordination across the international community.

62. The Monitoring Team also believes that States would benefit from feedback on their reports. It would be a major undertaking to provide this for all, but it should be possible, in conjunction with the Counter Terrorism Committee and the CTED, to give individual States or groups of States a better sense of dialogue.

63. In this regard, the Monitoring Team notes that Resolution 1526 (2004) urges greater consultation between the 1267 Committee and Member States, either directly or through the Monitoring Team. This will allow for improvements in overall compliance and a more accurate assessment of the implementation of the sanctions by particular Member States. According to the information collected, States could be encouraged to provide examples of best practice, or to fill in the gaps in their reporting.

Annex

List of Non Reporting Countries
(As at 15 December 2004)

- States in **bold** are those that submitted letters of explanation.

1.	Antigua and Barbuda		28 May 02 and Add on 1 Aug 02; 19 May 03
2.	**Barbados**		27 Dec 01; 28 Jun 02; 7 Mar 03
3.	Bhutan		8 Jan 02
4.	**Bolivia***		4 Jan 02; 29 Aug 02; 23 Aug 03
5.	Botswana		27 Dec 01; 20 Feb 04
6.	**Burkina Faso**		18 Apr 02; 31 Mar 03
7.	Burundi		31 Dec 01 and 1 Apr 02 Corr
8.	Cameroon		18 Mar 02; 28 Apr 03
9.	Cape Verde		31 Dec 01
10.	**Central African Republic**		8 Jan 03
11.	Chad		30 Jul 03
12.	Comoros		**7 Aug 02**
13.	Congo		6 Sep 02; 25 Jun 03
14.	Côte d'Ivoire		3 Jan 02; 9 Apr 03
15.	Democratic Republic of the Congo		24 Jan 02; 31 Mar 03
16.	**Dominican Republic**		13 Dec 01; 28 Apr 03; 13 Jan 04
17.	Equatorial Guinea		14 Feb 02
18.	Ethiopia		**31 Jan 02; 8 Nov 02**
19.	Gabon		**20 Dec 01; 28 Apr 03**
20.	Georgia	20 Jan 03	2 Jan 02 and 3 Jul 02 Add; 21 Oct 02
21.	Ghana		27 Jun 02 and 25 Sep 02 Add
22.	Grenada		21 Dec 01; 20 May 02
23.	Guinea-Bissau		15 Mar 02
24.	**Guyana*** **		28 May 02 and 17 Jun 02 Add; 28 Nov 03
25.	Haiti		4 Jun 02; 28 Jul 03
26.	Iraq		27 Dec 01; 14 Aug 02
27.	Kenya		31 Jul 02; 31 Mar 03; 10 Mar 04
28.	Kiribati		20 Jun 02
29.	Liberia		6 Mar 03
30.	**Madagascar***	22 May 02 and Addendum on 4 Dec 02	17 Jun 02; 7 Jul 03
31.	Malawi		18 Mar 02
32.	Mali	13 June 02	3 Jun 02; 30 Oct 03
33.	Mauritania		29 Aug 02; 28 Apr 03
34.	Micronesia (Federated States of)		7 May 02
35.	Mozambique		9 Jan 02; 27 Oct 03
36.	Nauru		4 Jun 02; 31 Jan 03
37.	Niger		22 Jan 02; 9 Jun 03; 10 May 04

38.	Nigeria		16 Jan 02; 12 Mar 03
39.	Papua New Guinea		15 Jul 02; 5 Sep 03
40.	Rwanda		13 Sep 02; 11 Jul 03; 7 May 04
41.	Saint Kitts and Nevis*		28 Oct 02
42.	Saint Lucia		28 Oct 02
43.	Saint Vincent and the Grenadines		10 Jun 02; 28 Apr 03
44.	Samoa		15 Feb 02; 29 Aug 03
45.	Sao Tome and Principe		22 May 03
46.	Seychelles **		17 Apr 03; 30 Dec 03
47.	Sierra Leone	6 Sept 02	4 Mar 03
48.	Solomon Islands		26 Aug 02
49.	Suriname		12 Aug 02; 10 Sep 03
50.	Swaziland		17 Apr 03
51.	Timor-Leste		21 Apr 03; 26 May 04
52.	Togo		25 Sep 02
53.	Trinidad and Tobago*		25 Jan 02; 24 Oct 02
54.	Tuvalu		14 Feb 03
55.	Uganda		6 May 02; 27 Oct 03
56.	United Republic of Tanzania		17 Jul 02
57.	Uruguay		24 Dec 01; 17 Jun 02; 10 May 04
58.	Vanuatu		28 Apr 03
59.	Zambia		20 Jun 02
60.	Zimbabwe		1 Aug 02; 28 Apr 03

After the above analysis was submitted to the 1267 Committee on 15 October 2004,

* The Republic of Madagascar submitted a letter of explanation and has indicated its intention to submit its report by January 2005. St Kitts and Nevis and Trinidad and Tobago also communicated to the MT that they have taken action on the preparation of their reports for submission as soon as possible. Bolivia also communicated its resolve to submit a report as indicated in its letter of explanation.

** The Republic of Seychelles submitted its 1455 report on 16 November 2004.

*** Guyana submitted its 1455 report on 8 December 2004.